

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SYDNEY DECAPIANO,

Defendant.

8:17CR50

ORDER

This matter is before the Court on defendant Sydney Decapiano's ("Decapiano") Motion for Compassionate Release (Filing No. 53) pursuant to 18 U.S.C. § 3582(c)(1)(A) and the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), Pub. L. No. 116-136, 134 Stat 281. Also before the Court is Decapiano's motion to supplement (Filing No. 55). Section 3582(c)(1)(A) authorizes Decapiano to move the Court to "reduce [her] term of imprisonment" for "extraordinary and compelling reasons" thirty days after asking the warden of the facility where she is incarcerated to file such a motion on her behalf. *See also United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020). Decapiano submitted a request for compassionate release to the warden at her facility on September 15, 2020. Her decision was denied on February 12, 2021. More than thirty days have passed since she submitted her request.

Upon initial review of Decapiano's motion and supplemental materials, the Court finds she has potentially raised a colorable claim for a sentence reduction under § 3582(c)(1)(A)(i). The Court further finds that appointing counsel to represent Decapiano will help the Court evaluate her request for relief. Accordingly,

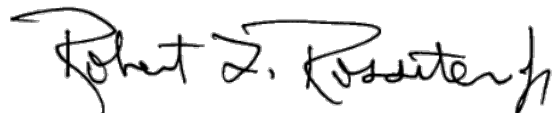
IT IS ORDERED:

1. Decapiano's motion to supplement (Filing No. 55) is granted.

2. The Federal Public Defender for the District of Nebraska is appointed to represent Decapiano for the limited purpose of determining whether there are extraordinary and compelling reasons to reduce her term of imprisonment.
3. In the event the Federal Public Defender should decline this appointment because of a conflict of interest or on the basis of the Amended Criminal Justice Act Plan, the Federal Public Defender shall provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district.
4. If, upon review, appointed counsel concludes the motion is frivolous, they may move to withdraw as counsel.
5. The U.S. Probation and Pretrial Services Office is directed to investigate Decapiano's request for sentencing relief and promptly file under seal a report summarizing the results of that investigation, including whether Decapiano has been offered or received a vaccine for COVID-19.
6. If necessary, the probation office is authorized to disclose Presentence Investigation Reports to the Federal Public Defender and the United States Attorney for the purpose of evaluating the motion. The Federal Public Defender shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.
7. The government and Decapiano's counsel shall each file within ten days of the probation office filing its investigation report a brief addressing Decapiano's request for sentencing relief and provide any evidence necessary to the Court's disposition of her motion. Absent an extension or other request from the parties, the motion shall be deemed fully briefed and submitted as of that date.

Dated this 26th day of March 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge